

**ASSEMBLY BILL**

**No. 2594**

**Introduced by Assembly Member Cox**

February 25, 2000

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An act to amend Section 650 of the Business and Professions Code, to amend Sections 750 and 1873 of the Insurance Code, and to amend Section 549 of the Penal Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2594, as introduced, Cox. Insurance fraud.

Existing law relative to insurance fraud generally provides that it is a crime for healing arts practitioners to receive money or other consideration for, or to engage in various related activities with respect to, the referral of patients, clients, or customers to any person, with certain exceptions, as specified. Similar provisions in the Insurance and Penal Codes apply to persons engaged in the processing, presenting, or negotiation of claims and to persons in general. Existing law specifies varying criminal penalties for these various offenses, generally providing for a fine of up to \$10,000 or one year in jail or prison, or both, as specified.

This bill would increase and standardize penalties for these related public offenses by providing for a fine of up to \$50,000 or imprisonment in the state prison for 2, 3, or 5 years, or both the fine and imprisonment. By increasing the penalties for crimes, this bill would impose a state-mandated local program.

Existing law authorizes certain peace officers to submit a written request to an insurer for relevant information that the insurer may have relating to insurance fraud.

This bill would correct certain erroneous cross-references in that authorization provision.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 650 of the Business and  
2 Professions Code is amended to read:

3 650. Except as provided in Chapter 2.3 (commencing  
4 with Section 1400) of Division 2 of the Health and Safety  
5 Code, the offer, delivery, receipt, or acceptance by any  
6 person licensed under this division of any rebate, refund,  
7 commission, preference, patronage dividend, discount,  
8 or other consideration, whether in the form of money or  
9 otherwise, as compensation or inducement for referring  
10 patients, clients, or customers to any person, irrespective  
11 of any membership, proprietary interest or coownership  
12 in or with any person to whom these patients, clients or  
13 customers are referred is unlawful.

14 The payment or receipt of consideration for services  
15 other than the referral of patients which is based on a  
16 percentage of gross revenue or similar type of contractual  
17 arrangement shall not be unlawful if the consideration is  
18 commensurate with the value of the services furnished or  
19 with the fair rental value of any premises or equipment  
20 leased or provided by the recipient to the payor.

21 Except as provided in Chapter 2.3 (commencing with  
22 Section 1400) of Division 2 of the Health and Safety Code  
23 and in Sections 654.1 and 654.2, it shall not be unlawful for  
24 any person licensed under this division to refer a person



1 to any laboratory, pharmacy, clinic (including entities  
2 exempt from licensure pursuant to Section 1206 of the  
3 Health and Safety Code), or health care facility solely  
4 because the licensee has a proprietary interest or  
5 coownership in the laboratory, pharmacy, clinic, or  
6 health care facility; provided, however, that the licensee's  
7 return on investment for that proprietary interest or  
8 coownership shall be based upon the amount of the  
9 capital investment or proportional ownership of the  
10 licensee which ownership interest is not based on the  
11 number or value of any patients referred. Any referral  
12 excepted under this section shall be unlawful if the  
13 prosecutor proves that there was no valid medical need  
14 for the referral.

15 "Health care facility" means a general acute care  
16 hospital, acute psychiatric hospital, skilled nursing  
17 facility, intermediate care facility, and any other health  
18 facility licensed by the State Department of Health  
19 Services under Chapter 2 (commencing with Section  
20 1250) of Division 2 of the Health and Safety Code.

21 A violation of this section is a public offense and is  
22 punishable ~~upon a first conviction by imprisonment in~~  
23 ~~the county jail for not more than one year, or by~~  
24 ~~imprisonment in the state prison, or by a fine not~~  
25 ~~exceeding ten thousand dollars (\$10,000), or by both such~~  
26 ~~imprisonment and fine. A second or subsequent~~  
27 ~~conviction is punishable by imprisonment in the state~~  
28 ~~prison by a fine not exceeding fifty thousand dollars~~  
29 ~~(\$50,000), by imprisonment in the state prison for two,~~  
30 ~~three, or five years, or by both that fine and~~  
31 ~~imprisonment.~~

32 SEC. 2. Section 750 of the Insurance Code is amended  
33 to read:

34 750. (a) Except as provided in Section 750.5, any  
35 person acting individually or through his or her  
36 employees or agents, who engages in the practice of  
37 processing, presenting, or negotiating claims, including  
38 claims under policies of insurance, and who offers,  
39 delivers, receives, or accepts any rebate, refund,  
40 commission, or other consideration, whether in the form

1 of money or otherwise, as compensation or inducement  
2 to or from any person for the referral or procurement of  
3 clients, cases, patients, or customers, is guilty of a crime.

4 (b) ~~(1) A violation of subdivision (a) is punishable~~  
5 ~~upon a first conviction by imprisonment in the county jail~~  
6 ~~for not more than one year, or by imprisonment in the~~  
7 ~~state prison, or by a fine not exceeding ten thousand~~  
8 ~~dollars (\$10,000), or by both that imprisonment and fine.~~

9 ~~(2) A second or subsequent conviction is punishable~~  
10 ~~by imprisonment in the state prison by a fine not~~  
11 ~~exceeding fifty thousand dollars (\$50,000), by~~  
12 ~~imprisonment in the state prison for two, three, or five~~  
13 ~~years, or by both that fine and imprisonment.~~

14 (c) Nothing in this section shall prohibit a licensed  
15 collection or lien agency from receiving a commission on  
16 the collection of delinquent debts nor prohibits the  
17 agency from paying its employees a commission for  
18 obtaining clients seeking collection on delinquent debts.

19 (d) Nothing in this section is intended to limit, restrict,  
20 or in any way apply to, the rebating of commissions by  
21 insurance agents or brokers, as authorized by Proposition  
22 103, enacted by the people at the November 8, 1988,  
23 general election.

24 SEC. 3. Section 1873 of the Insurance Code is  
25 amended to read:

26 1873. (a) Upon written request to an insurer by  
27 officers designated in subdivisions (a) and (b) of Section  
28 830.1 and subdivision (a) of Section 830.2, and  
29 subdivisions ~~(b)~~ (a), ~~(d)~~ (c), and ~~(k)~~ (i) of Section 830.3  
30 of the Penal Code, an insurer, or agent authorized by that  
31 insurer to act on behalf of the insurer, shall release to the  
32 requesting authorized governmental agency any or all  
33 relevant information deemed important to the  
34 authorized governmental agency that the insurer may  
35 possess relating to any specific insurance fraud. Relevant  
36 information may include, but is not limited to, all of the  
37 following:

38 (1) Insurance policy information relevant to the  
39 insurance fraud under investigation, including, but not  
40 limited to, any application for a policy.

(2) Policy premium payment records which are available.

(3) History of previous claims made by the insured.

(4) Information relating to the investigation of the insurance fraud, including statements of any person, proof of loss, and notice of loss.

(5) Complete copies of both sides of payment drafts.

(b) The provisions of subdivision (a) shall not operate to authorize disclosure of medical information not otherwise authorized for disclosure pursuant to law.

SEC. 4. Section 549 of the Penal Code is amended to read:

549. Any firm, corporation, partnership, or association, or any person acting in his or her individual capacity, or in his or her capacity as a public or private employee, who solicits, accepts, or refers any business to or from any individual or entity with the knowledge that, or with reckless disregard for whether, the individual or entity for or from whom the solicitation or referral is made, or the individual or entity who is solicited or referred, intends to violate Section 550 of this code or Section 1871.4 of the Insurance Code is guilty of a crime, punishable ~~upon a first conviction by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16 months, two years, or three years, or by a fine not exceeding ten thousand dollars (\$10,000), or by both that fine and imprisonment.~~ A second or subsequent conviction is punishable by imprisonment in the state prison by a fine not exceeding fifty thousand dollars (\$50,000), by imprisonment in the state prison for two, three, or five years, or by both that fine and imprisonment.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition

1 of a crime within the meaning of Section 6 of Article  
2 XIII B of the California Constitution.

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